

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
Asheville Division

FILED
ASHEVILLE, N.C.
MAY 22 2009
U.S. DISTRICT COURT
W. DIST. OF N.C.

IMRAN ALAM,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

No. 1:09cv114
(1:07cr119)

ORDER

On March 18, 2009, petitioner filed a motion to strike his plea and vacate his sentence, pursuant to 28 U.S.C. §§ 2255 and 1651(a), based on alleged ineffective assistance of counsel. The government thereafter filed a response to petitioner's motion on April 24, 2009, representing the government's position that petitioner's claim warrants striking petitioner's guilty plea, vacating his sentence, and returning the underlying criminal matter to pretrial status.

Although petitioner's motion remains pending, it appears that a deportation hearing is scheduled for Tuesday, May 26, 2009, based on underlying conviction at issue in this matter. Accordingly, a status conference was held on Friday, May 22, 2009, to address the appropriate manner in which to proceed.

It appears, based on the government's agreement with petitioner's motion, that there exists a substantial possibility that petitioner's conviction and sentence may be vacated. Yet, it also appears that further briefing is necessary to address whether petitioner may have waived his claim.

Accordingly, for the reasons stated from the Bench, and for good cause,


It is hereby **ORDERED** that petitioner's motion is **TAKEN UNDER ADVISEMENT**, and counsel for petitioner may seek a continuance of the deportation hearing currently scheduled for

Tuesday, May 26, 2009. In the event no continuance is granted, counsel for petitioner is to advise the Court promptly.

It is further **ORDERED** that the government is **DIRECTED** to file a pleading by 5:00 p.m., Friday, June 5, 2009, addressing (i) whether petitioner waived his ineffective assistance of counsel claim and (ii) the manner in which the government intends to proceed in the event petitioner's motion is granted, both with respect to the underlying criminal charges and the property forfeiture resulting from petitioner's plea. The matter will thereafter be decided promptly without further oral argument.

The Clerk is directed to send a copy of this Order to all counsel of record.

May 22, 2009
Alexandria, VA



T. S. Ellis, III
United States District Judge